

AMENDED IN SENATE AUGUST 2, 2010

AMENDED IN SENATE JUNE 24, 2010

AMENDED IN ASSEMBLY JUNE 1, 2010

AMENDED IN ASSEMBLY MAY 6, 2010

AMENDED IN ASSEMBLY APRIL 27, 2010

AMENDED IN ASSEMBLY MARCH 24, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

## ASSEMBLY BILL

**No. 1676**

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**Introduced by Assembly Member Fuentes**  
**(Coauthors: Assembly Members Jeffries and Solorio)**

January 21, 2010

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An act to add Section 1065 to the Government Code, relating to elected officials, *and declaring the urgency thereof, to take effect immediately.*

### LEGISLATIVE COUNSEL'S DIGEST

AB 1676, as amended, Fuentes. Elected officials: residency requirements.

Existing law imposes residency requirements on specified elected officials in California. The California Constitution provides that each house of the Legislature is the sole judge of the qualifications of its Members.

This bill would require that a person elected to a nonjudicial public office for a county, city, or school district, maintain his or her domicile, as defined, within the jurisdiction within which voters are qualified to vote for the office during his or her term of office. The bill would require

a person who violates this provision to immediately forfeit his or her office and would disqualify the person from holding any state or local public office for a period of 4 years. The bill would provide that these provisions would apply to all persons holding a nonjudicial, public office for a county, city, or school district on or after the effective date of the bill. As to persons holding these offices serving terms of office that commence on or after November 2, 2010, the bill would also make a violation of the domicile requirement punishable by either a civil penalty not to exceed \$1,000 or a fine not to exceed \$1,000, imprisonment in a county jail for no more than 6 months, or by both fine and imprisonment. The bill would authorize enforcement of its provisions by the Attorney General, the district attorney or the county counsel of a county for a violation involving a nonjudicial public office whose territory is located wholly or partially within that county, or by the city attorney of a city for a violation involving a nonjudicial public office whose territory is located wholly or partially within that city.

The bill would also provide that Members of the Legislature should be domiciled in the districts that they represent and that each house of the Legislature should review its rules relative to qualifications to hold office and amend those rules as appropriate.

By creating a new crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

*This bill would declare that it is to take effect immediately as an urgency statute.*

Vote: ~~majority~~<sup>2/3</sup>. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 1065 is added to the Government Code,
- 2 to read:
- 3 1065. (a) Notwithstanding any other provision of law, a person
- 4 elected to a nonjudicial public office for a county, a city, or a
- 5 school district, shall continue to maintain his or her domicile within
- 6 the jurisdiction in which voters are qualified to vote for the office

1 during his or her term of office. A person does not violate this  
2 subdivision if, after being elected for a term of office, the  
3 boundaries of the jurisdiction in which voters are qualified to vote  
4 for the office are changed during that term of office so as to exclude  
5 his or her domicile.

6 (b) A person who violates subdivision (a) shall immediately  
7 forfeit his or her office and is disqualified from holding any state  
8 or local public office for a period of four years.

9 (c) A violation of subdivision (a) is punishable by one of the  
10 following:

11 (1) A civil penalty not to exceed one thousand dollars (\$1,000).

12 (2) By imprisonment in a county jail not exceeding six months,  
13 or by a fine not exceeding one thousand dollars (\$1,000), or by  
14 both that fine and imprisonment.

15 (d) An action to enforce this section may be brought by the  
16 Attorney General, the district attorney or county counsel of a  
17 county for a violation involving a nonjudicial public office whose  
18 territory is located wholly or partially within that county, or the  
19 city attorney of a city for a violation involving a nonjudicial public  
20 office whose territory is located wholly or partially within that  
21 city.

22 (e) Subdivisions (a) and (b) apply to all persons holding a  
23 nonjudicial public office for a county, city, or school district on  
24 or after the effective date of the statute that added this section.  
25 Subdivision (c) applies only to persons holding these offices under  
26 terms of office that commence on or after November 2, 2010.

27 (f) For purposes of this section, “domicile” shall have the same  
28 meaning as defined in subsection (b) of Section 349 of the  
29 Elections Code.

30 SEC. 2. The provisions of this section are severable. If any  
31 provision of this section or its application is held invalid, that  
32 invalidity shall not affect other provisions or applications that can  
33 be given effect without the invalid provision or application.

34 SEC. 3. The Legislature hereby finds and declares that, in order  
35 to ensure that Members of the Legislature adequately and  
36 effectively represent their constituents, those elected to the  
37 Legislature should be domiciled in the districts that they are elected  
38 to represent. As each house of the Legislature judges its rules  
39 relative to the qualifications to hold office pursuant to Section 5  
40 of Article IV of the California Constitution, each house of the

1 Legislature should review its rules relative to qualifications to hold  
2 office and should amend those rules as appropriate.

3 SEC. 4. No reimbursement is required by this act pursuant to  
4 Section 6 of Article XIII B of the California Constitution because  
5 the only costs that may be incurred by a local agency or school  
6 district will be incurred because this act creates a new crime or  
7 infraction, eliminates a crime or infraction, or changes the penalty  
8 for a crime or infraction, within the meaning of Section 17556 of  
9 the Government Code, or changes the definition of a crime within  
10 the meaning of Section 6 of Article XIII B of the California  
11 Constitution.

12 SEC. 5. *This act is an urgency statute necessary for the*  
13 *immediate preservation of the public peace, health, or safety within*  
14 *the meaning of Article IV of the Constitution and shall go into*  
15 *immediate effect. The facts constituting the necessity are:*

16 *Because existing law is unclear as to whether a public official*  
17 *must be domiciled in the jurisdiction in which voters are qualified*  
18 *to vote for the office during his or her incumbency in the office, it*  
19 *is necessary that this act take immediate effect.*